



# Sentencing Act 2020

## 2020 CHAPTER 17

### THIRD GROUP OF PARTS Disposals

#### PART 10

#### CUSTODIAL SENTENCES

#### CHAPTER 1

#### CUSTODY: GENERAL PROVISIONS

#### *Exercise of powers to impose discretionary custodial sentences*

#### **231 Length of discretionary custodial sentences: general provision**

- (1) Subsection (2) applies where a court passes a custodial sentence in respect of an offence.

This is subject to subsections (3) to (6).

- (2) The custodial sentence must be for the shortest term (not exceeding the permitted maximum) that in the opinion of the court is commensurate with the seriousness of—
- the offence, or
  - the combination of the offence and one or more offences associated with it.

#### *Application of subsection (2) to mandatory sentences and extended sentences*

- (3) Subsection (2) does not apply where the sentence is—
- fixed by law, or
  - a required life sentence,
- except as provided in sections 273(4) and 283(4) (pre-condition for life sentence for second listed offence).
- (4) In subsection (3), “required life sentence” means a sentence of—

---

*Status: This is the original version (as it was originally enacted).*

---

- (a) detention for life under section 250,
  - (b) custody for life under section 272, or
  - (c) imprisonment for life,
- required under a provision mentioned in section 399(b) (mandatory sentences).
- (5) Subsection (2) is subject to the provisions mentioned in section 399(c) (minimum sentences).
  - (6) Subsection (2) does not apply where the custodial sentence is an extended sentence, except as provided in sections 256(2), 268(2) and 281(2) (determination of appropriate custodial term).

*Procedure for forming opinion*

- (7) In forming its opinion for the purposes of subsection (2), the court must take into account all the information that is available to it about the circumstances of the offence, or of it and the associated offence or offences, including any aggravating or mitigating factors.
- (8) The pre-sentence report requirements (see section 30) apply to the court in relation to forming that opinion, except where the sentence is an extended sentence.
- (9) See section 232 for additional requirements in the case of an offender suffering from a mental disorder.